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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,282	07/25/2003	Michael F. Shapiro	089477.00002	4718

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WADDEY & PATTERSON, P.C.
1600 DIVISION STREET, SUITE 500
NASHVILLE, TN 37203

EXAMINER

WILLIAMS, JEFFERY L

ART UNIT	PAPER NUMBER
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2137

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/22/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/628,282

Applicant(s)

SHAPIRO, MICHAEL F.

Examiner

Jeffery Williams

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/10/03 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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DETAILED ACTION

Claims 1 – 23.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maes et al. (Maes), "Portable Information and Transaction Processing System and Method Utilizing Biometric Authorization and Digital Certificate Security", U.S. Patent 6,016,476 in view of Shore, U.S. Patent Publication 2003/0149662 A1.

Regarding claim 1, Maes discloses:
a magnetic strip that is readable by a standard swipe card reader (Abstract; 4:12-18; 6:28-55);
input communication means for receiving a request for an authentication signal from a remote terminal (fig. 1:50,54,46,42,44);

1 Maes does not disclose that the portable computing device comprises a *power*
2 *supply*.

3 However, it was well known to those of ordinary skill in the art to comprise power
4 supplies within portable computing devices (such as PDA's). For example, Shore
5 discloses that a PDA authentication device comprises a power supply (fig. 1g:8a) so as
6 to function in a practical manner.

7 It would have been obvious to one of ordinary skill in the art to apply practical
8 prior art techniques, such as taught by Shore, within the PDA of Maes. This would have
9 been obvious because one of ordinary skill in the art would have been motivated by the
10 need for system functionality to provide a form of power.

11 *a biometric sensor for detecting biometric information and producing a sensed*
12 *biometric profile in a response to a received request for an authentication signal (Maes,*
13 *fig. 1:18,40);*

14 *a memory for storing a biometric profile corresponding to an individual (Maes, fig.*
15 *1:14, 26);*

16 *a processor for comparing the sensed biometric profile with the stored biometric*
17 *profile and producing an authentication signal (Maes, fig. 1:12);*

18 and output communication means for communicating the authentication signal to
19 the remote terminal (Maes, fig. 1:26, 50,54,46,42,44).

20
21 Regarding claim 2, the combination discloses:

1 *wherein the output communication means further comprises an infrared*
2 *communication port (Maes, fig. 1:50,54,46,42,44).*

3
4 Regarding claim 3, the combination discloses:
5 *a proximity antenna for sending messages to, and receiving messages from,*
6 *another proximity antenna (Maes, fig. 1:50,54,46,42,44).*

7
8 Regarding claim 4, the combination discloses:
9 *a microphone for receiving audible signals and voice recognition software for*
10 *comparing said audible signals and with stored individual voice profiles (Maes, fig.*
11 *1:18,16, 22; 4:45-64).*

12
13 Regarding claim 5, the combination discloses:
14 *a keyboard that allows a user to enter text into the device (Maes, 5:36-53).*

15
16 Regarding claim 6, the combination discloses:
17 *a speaker that allows the processor to produce voice responses (Maes, 5:36-53).*

18
19 Regarding claim 7, the combination discloses:
20 *magnetic strip writing means that allow the processor to alter information*
21 *contained on the magnetic strip (Maes, fig. 1:30).*

22

1 Regarding claim 8, the combination discloses:

2 *wherein said memory contains certification information that can be examined by*
3 *a remote terminal to determine if the device corresponds to an authorized account*
4 (Maes, Abstract).

5
6 Regarding claim 9, the combination discloses:

7 *wherein the biometric sensor further comprises a fingerprint detector and the*
8 *processor and memory further comprise fingerprint recognition software for determining*
9 *if a sensed fingerprint matches a stored biometric profile (Maes, 5:55-67).*

10
11 Regarding claim 10, the combination discloses:

12 *wherein the portable device has a protrusion that is adapted to engage a swipe*
13 *card reader (Maes, fig. 1:26).*

14
15 Regarding claim 11, it is rejected, at least, for the same reasons as claim 1, and
16 furthermore because the combination discloses:

17 *a card swipe interface that allows stored data to be communicated to a magnetic*
18 *card reader (Maes, fig. 1:26);*

19 *a data input that allows said electronic data assistant to receive personal*
20 *identifying data from a remote source (Maes, fig. 1:50,54,46,42,44);*

21 *a memory for storing personal identification information related to a particular*
22 *individual (Maes, fig. 1:14, 26);*

1 a processor for comparing said personal identifying data from said remote source
2 to said stored personal identification information and producing an authentication signal
3 based upon said comparison (Maes, fig. 1:12);
4 and a data output for communicating said authentication signal to a remote
5 source (Maes, fig. 1:26, 50,54,46,42,44).
6

7 Regarding claims 12, 13, 15, 16, 17, 18, and 19, they are rejected, at least, for
8 the same reasons as the above rejected claims.
9

10 Regarding claim 14, Maes does not explicitly state that memory within the PDA
11 authentication device comprises *read only* memory and *random access* memory.

12 However, it was well known to those of ordinary skill in the art for the memory of
13 PDA authentication devices to comprise both *read only* and *random access* memory.
14 For example, Shore discloses that a PDA authentication device comprises both *read*
15 *only* and *random access* memory (Abstract, fig. 1g:3,2).

16 It would have been obvious to one of ordinary skill in the art to apply known prior
17 art techniques, such as that of Shore, within the PDA of Maes. This would have been
18 obvious because one of ordinary skill in the art would have been motivated by the need
19 for system functionality and security to provide memory that would enable integral
20 device software to be protected within unalterable memory space and dynamic data to
21 be read/written from alterable memory space.
22

1 **Claims 20 – 23 are rejected under 35 U.S.C. 103(a) as being unpatentable**
2 **over Wang, “Portable Electronic Authorization Devices and Methods Therfor”,**
3 **U.S. Patent 5,917,913 in view of Maes et al. (Maes), “Portable Information and**
4 **Transaction Processing System and Method Utilizing Biometric Authorization and**
5 **Digital Certificate Security”, U.S. Patent 6,016,476.**

6
7 Regarding claim 20, Wang discloses:
8 *detecting a communication center's request for an identification (4:8-30);*
9 *prompting an individual to respond to said request for an identification by*
10 *providing biometric information (11:5-13);*
11 *receiving said biometric information from said user (11:5-13);*

12 Wang states that the biometric information from the user is required to allow the
13 request for identification information to be satisfied. Wang, however, does not explicitly
14 state *processing* the received biometric information.

15 However, processing the biometric information entered by the user would have
16 been obvious to one of ordinary skill in the art. Maes shows that when a user enters
17 biometric information into a biometric authentication device, the device should process
18 such information in order for the device to make practical application of the entered
19 biometric information [i.e. verify the user](10:35-65).

20 It would have been obvious to one of ordinary skill in the art to employ the
21 processing of received biometric information as shown by Maes within the system of
22 Wang. This would have been obvious because one of ordinary skill in the art would

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1 have been motivated by the need for security to verify users, and thus practically
2 perform steps necessary to do so.

3 *processing said biometric information to determine if said biometric information*
4 *corresponds to a biometric profile (Wang, 11:5-13);*
5 *producing an authentication signal ; and communicating said authentication*
6 *signal to said communication center in response to receiving said request for an*
7 *identification (Wang, 11:24-31; 4:41-55).*

8
9 Regarding claim 21, the combination discloses:

10 *wherein the step of receiving biometric information from said user further*
11 *comprises receiving a representation of said user's fingerprint (Wang, claim 26).*

12
13 Regarding claim 22, the combination discloses:

14 *wherein the step of receiving biometric information from said user further*
15 *comprises receiving a voice sample from said user (Wang, claim 26).*

16
17 Regarding claim 23, the combination discloses:

18 *wherein the step of processing said biometric information to determine if said*
19 *biometric information corresponds to a biometric profile further comprises comparing the*
20 *biometric information to a biometric profile stored on a device carried by the individual*
21 *(Wang, 1:53-61; 5:51-6:13; fig. 3a:302; 11:5-13; Maes 10:35-65).*

22

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

See Notice of References Cited.

A shortened statutory period for reply is set to expire **3** months (not less than 90 days) from the mailing date of this communication.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffery Williams whose telephone number is (571) 272-7965. The examiner can normally be reached on 8:30-5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

J. Williams
AU: 2137

JW


EMMANUEL L. MOISE
SUPERVISORY PATENT EXAMINER